

ANNUAL REPORT 2021



ANGUILLA FINANCIAL SERVICES COMMISSION



Anguilla Financial Services Commission
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OUR MISSION

To enhance the safety, stability and integrity of Anguilla's financial system and contribute to Anguilla being a premier financial centre, through appropriate regulation and legislation, judicious licensing, comprehensive monitoring and good governance.

DIRECTOR'S REPORT



1.0 Executive Summary

The purpose of this report is to highlight the work done by the Commission in 2021 regarding the various portfolios of business under the financial services enactments, review of legislation and developments and outreach initiatives with strategic partners.

The Financial Services Commission Act, R.S.A. c. F28 ("FSC Act") as the enabling legislation allows the Commission to administer the financial services enactments and gives the Commission responsibility for prudential supervision of licensees. In addition, the Commission is the Anti-Money Laundering and Counter Financing of Terrorism (AML/CFT) supervisor for financial service providers pursuant to section 154 of the Proceeds of Crime Act, R.S.A. c. P98 ("POCA"). The Commission therefore has a large remit.

Notwithstanding, the Commission continues in its efforts to educate through its industry engagements and consultations. Its 2021 first virtually held FinTech and Compliance Conference which engaged professionals from around the world involved in various aspects of the financial services, compliance, FinTech as well as academia, is especially of mention.

Key and meaningful consultation sessions were held throughout the year to impact and shape draft legislation. This year's consultation sessions included the Co-operative Societies

legislation, segregated portfolio companies under the Business Companies legislation and the due diligence register under the Commercial Registry and Beneficial Ownership Registration System legislation. The Commission continues its review of legislation specifically that of the Trust and Corporate Service Providers, Securities and Investment Funds, Variable Capital Companies and Anguilla Special Trust.

The Commission remains steadfast in its preparation for the Fourth Round of AML/CFT Mutual Evaluations and engaged in training with Glenda Leben of the Caribbean Financial Action Task Force (CFATF) regarding “Understanding Immediate Outcome 3 – Effective Supervision”.

The Commission also continues to collaborate with other national regulatory authorities and entered into a Multi Memorandum of Understanding with the Eastern Caribbean Central Bank and the Eastern Caribbean Regulatory Authorities regarding information sharing on payment systems. Further, through its membership with Global Financial Innovation Network (GFIN), the Commission collaborated with thought leaders in FinTech to accomplish a successful annual conference.

The Commission wishes to commend a longstanding employee, Mrs. Maria Smith, on her invaluable contribution to the Commission. Mrs. Smith retired in July 2021. Also, the Commission welcomes Ms. Jacqueline Sergeant as Accountant and Ms. Gesel Hodge as Regulator I. The Commission appreciates the assistance of her sister regulatory authority, the British Virgin Islands Financial Services Commission for the secondment of Simone Martin, Deputy Director who concluded her contract in December 2021. The Commission notes the reappointment of Mr. Ralph Hodge, Chairman; Ms. Tara Carter, Deputy Chairman; Professor Delroy Loudon, Member and Erville Hughes, Member.

In review of the various portfolios under the Commission’s remit, there continues to be a decline in the licensees particularly with captive insurance companies due to external drivers that impacted the decision of service providers to domicile mainly onshore. The reduction in licensees directly correlated to the collection of revenues during the year with the Commission experiencing negative net income. Despite the challenges, the Commission’s staff is to be commended for its dedication and commitment and its continued efforts to introduce new products and services via new legislation.

2.0 Regulation Statistics

Licensee Statistics

REGULATED BUSINESS BY SECTOR 2021

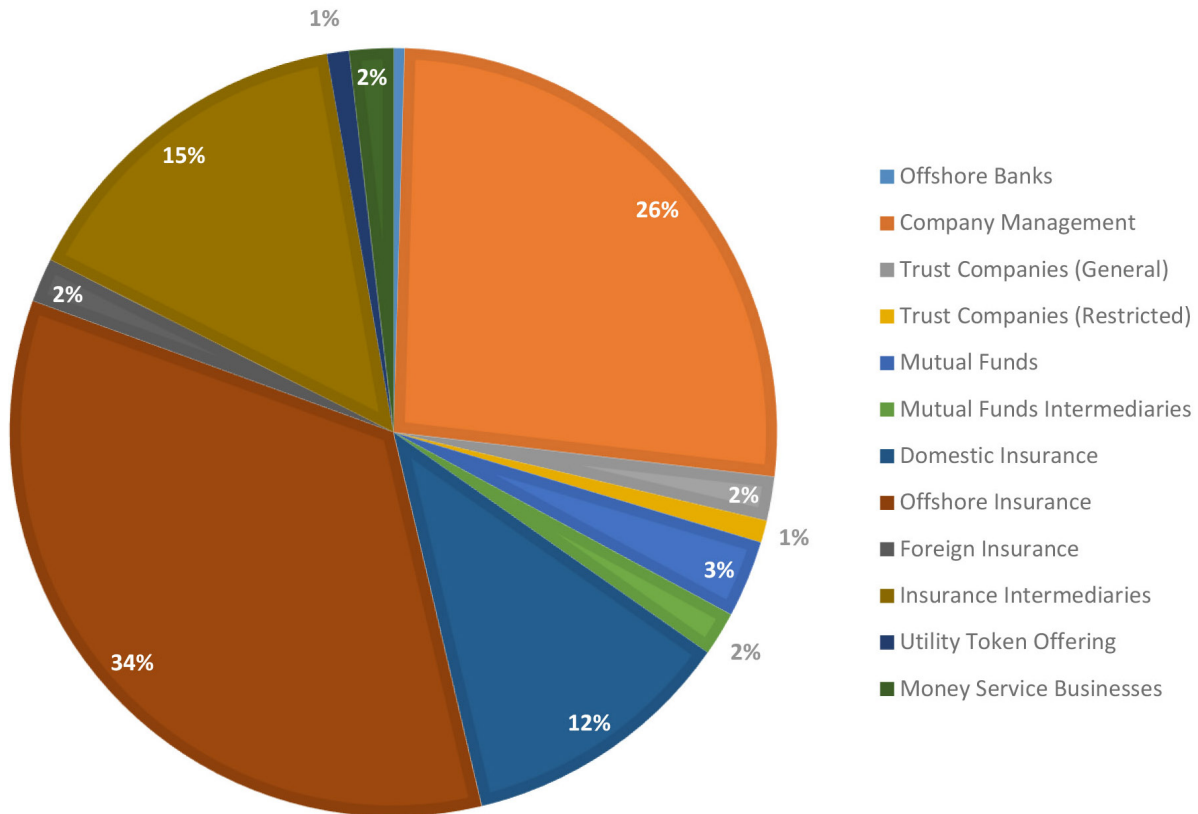


Figure 1: Percentage of Licensees in 2021

Noticeable sectors include the offshore insurance sector, company management sector and the domestic insurance along with the insurance intermediaries. It must be noted that the Commission continued to experience a decline in the overall number of its licensees. Thus, the Commission has embarked on the review of a suite of legislation to allow for diversification and a revised regulatory regime.

The total number of licensees was 214 as at 31 December 2021. This represents a decline of 8.15% from the previous year's total of 233 as at 31 December 2020, which itself represented a 10.3% reduction as compared to the total number of licensees as at 31 December 2019.

The captive insurance sector, in particular, comprising some 34% of the Commission's licensees, continued its decline in numbers, falling from 94 licensees as at 31 December 2020 to 74 as at 31 December 2021, a decline of 21.3%. Increased competition from U.S. states to attract captive insurance company incorporations, combined with actions by the U.S. Internal Revenue Service directed at small captive insurance companies, have led to many U.S. owned captives favoring a U.S. domicile thus resulting in Anguilla licensing fewer captive insurance licensees.

The company management sector represents 26% of the total licensees with hardly any variation over the past 5 years.

The domestic insurance sector represents 12% of licensees while the insurance intermediaries represent 15% of the licensees.

Regulated Business Statistics

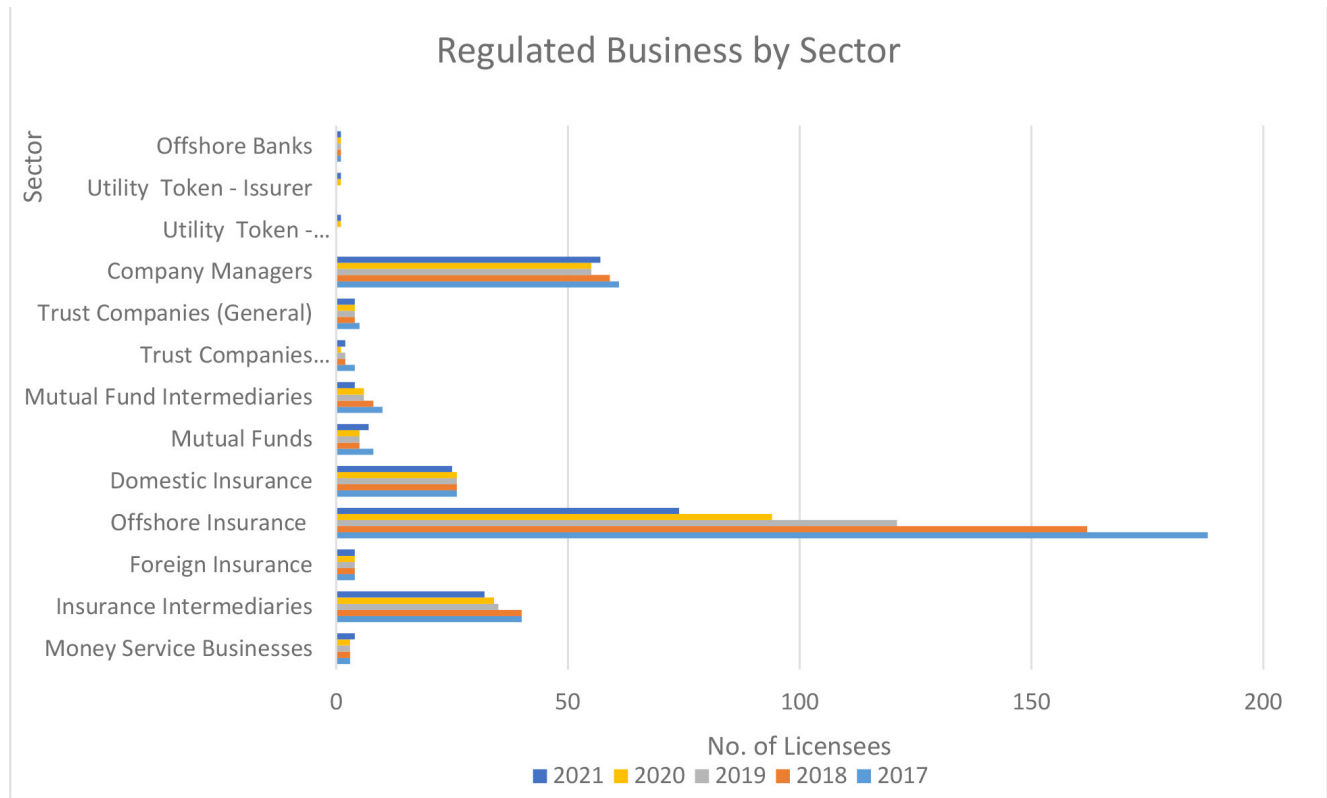


Figure 2: Regulated Business by Sector (2017-2021)

3.0 Sector Reports

Below the various financial services sectors which include insurance, mutual funds, company management and trust services, money services business, offshore bank, utility token offerings, externally and non-regulated service providers and non-profit organisations will be discussed.

Insurance Sector

Domestic insurers, agents and brokers

Domestic insurers

The financial sector continued to face disruptions from the ongoing COVID-19 pandemic, inclusive of the insurance sector. The industry also continued to face rising reinsurance costs against the backdrop of threats of increased frequency and severity of weather events due to climate change. Due to these and other external factors, the Commission must continue to be

vigilant as it seeks to implement a risk-based supervisory framework.

During the year, two full-scope inspections of domestic insurers were undertaken. Because of the difficulty of travel during a pandemic, both inspections were conducted virtually.

The year began with 26 licensed Class 'A' Insurers, and closed with 25, following the surrender of one domestic insurer.

As the effective date continued to draw closer, the Commission increased its efforts with respect to the implementation of the IFRS 17 standard for Insurance contracts, which applies to reporting periods commencing on or after 1 January 2023 for insurers using International Financial Reporting Standards. Subsequently, the Commission issued an IFRS 17 Preparedness Survey to its domestic insurers in April 2021. The purpose of the survey was to determine the status of the implementation preparations of affected insurers. Throughout the year, the Commission followed up with select local insurers individually, to determine the stage of preparation and challenges being faced.

To modify its supervisory framework, the Commission began looking at its internal processes to determine where amendments were required to cater for reporting under the new standard.

With respect to financial reporting requirements, the Commission took the policy decision to not require all insurers to file audited financial statements or other financial filings in accordance with IFRS. Therefore, insurers currently filing financial information using United States Generally Accepted Accounting Principles may continue to file using that standard, while those filing in accordance with IFRS may continue to file using IFRS, but will be required to comply with the new IFRS 17 standard once effective. Further, new guidelines pertaining to capital adequacy, statutory reserves and deposits are being explored, along with new reporting forms to capture the necessary data under IFRS 17 presentation.

The Commission has participated in committees and workshops on the subject of IFRS 17, and work is ongoing and will be further accelerated during the 2022 year to ensure readiness of the industry as well as the Commission upon the effective date of 1 January 2023.

In 2021, much resources were dedicated to enhanced monitoring of high-risk domestic insurers as well as to the supervision of insurers for which the Commission acts as home regulator. This inevitably includes regular collaboration with several other insurance supervisory authorities who act as host regulators. Such engagement has increased throughout the year.

Agents and Brokers

The number of insurance agents and brokers was sustained at 17, with no new licences or cancellations during 2021.

Non-Domestic Insurers

Captive Insurers

As at 31 December 2021, the number of captive licensees further declined to 74 from 94 at the prior year-end. The decrease was driven by 21 cancellations and a single new licence issued.

There were indications that the pandemic negatively impacted the operations of the underlying insured entities, thus driving captive owners to close down their captives.

Foreign Insurers

The number of licensed foreign insurers again remained unchanged. The year began and ended with 4 licensed in this category.

Insurance Managers

Following two surrenders, the total number of licensed insurance managers as at 31 December 2021 was 15. No new licences were granted during the year.

Mutual Fund Sector

Funds

As at 31 December 2021, there were 5 private funds and 2 professional fund licensed. There was one new licence granted.

Fund Managers and Administrators

As at 31 December 2021, there were 4 licensed fund managers and administrators. There were no new licences issued.

Company Management and Trust Services Sector

As at 31 December 2021, the Commission's licensees included a total of 4 general trust companies, 2 restricted trust companies and 57 company managers. During the year, there were 3 new licences with 2 granted to company managers and 1 restricted trust company.

Money Services Business Sector

The Commission currently has 4 money service business licensees. One of them is restricted to the operations of an automated teller machine and/or through a software application on a desktop computer, that converts U.S. dollars to bitcoins and bitcoins to U.S. dollars. There was one new licence granted.

Utility Token Offering

The Anguilla Utility Token Offering (AUTO) sector is a new sector with recently enacted legislation in 2018 and amendments to the AUTO Regulations in 2020. To date, there are two licensees in the sector – 1 administrator and 1 issuer.

Offshore Bank Sector

National Bank of Anguilla (Private Banking & Trust) Ltd. and Caribbean Commercial Investment Bank Ltd. remained under administration throughout 2021 pursuant to the terms of the order of the Eastern Caribbean Supreme Court made on 22 February 2016 under section 37 of the FSC Act. The Administrator, during 2021, continued efforts to protect the interests of the offshore banks and their depositors, including court actions initiated by the Administrator on behalf of the offshore banks in both the United States and Anguilla for the purpose of advocating for the legal rights of the offshore banks and their depositors to share in the assets distributed under the Eastern Caribbean Central Bank's resolution plan. The Administrator also continued to administer the outstanding loan books of the two offshore banks and pursued the collection of non-performing loans and the enforcement of security held in relation to those loans as necessary.

At the end of 2021, there was 1 active offshore bank.

Externally and Non-Regulated Service Providers

The Externally and Non-Regulated Service Providers Regulations, R.R.A. P98-6 ("ENRSP Regulations") introduced in 2013 gave the Commission responsibility for the supervision of domestic banks licensed under the Banking Act, 2015 and companies licensed under the Securities Act, R.S.A. c. S13 (together, Externally Regulated Service Providers ("ERSPs")) along with non-regulated service providers ("NRSPs"), for compliance with AML/CFT requirements under POCA. Such NRSPs include real estate agents, micro-lenders and high value dealers.

Service providers, as set out in Schedule 2 of the Anti-Money Laundering and Terrorist Financing Regulations, R.R.A. P98-1 ("AML/CFT Regulations") and not captured under a financial services enactment, are required to register as NRSPs under the ENRSP Regulations. The Commission registered 1 NRSP during 2021 with a total of 20 NRSPs. There continued to be 2 registered ERSPs.

Non-Profit Organisations

The Commission is responsible for the registration of non-profit organisations ("NPOs") under the Non-Profit Organisations Regulations, R.R.A. P98-2 and for supervising their compliance with anti-terrorist financing requirements under POCA. In 2021, the Commission registered 9 NPOs bringing the total registered NPOs to 167. Also, the Commission exempted 11 NPOs from registration with a total of 165 NPOs exempted from registration. An NPO can be exempted from registration if its gross annual income does not exceed EC\$5,000 and its assets do not exceed EC\$10,000.

4.0 AML/CFT Supervision

2021 Thematic Inspections

Following the completion of the first phase of the offsite thematic inspections in April 2021, the Commission published a summary of findings report in June 2021. The report outlined how well the sampled twenty (20) service providers performed during the first phase in the five (5) areas assessed namely: Customer Risk Assessment; Nature of Business and verification

of nature of business; Corporate Directorship services; Nominee Shareholder services; and Accounting Records. The report highlighted that deficiencies were particularly salient in the areas of customer risk assessment, verifying the nature of business and the holding of accounting records.

In the third Quarter of 2021, the Commission commenced the second phase of its offsite thematic inspections. The Commission sampled nineteen (19) of its service providers, who provide company management services, for compliance with the Anti-Money Laundering and Terrorist Financing (“AML/CFT”) legislation consisting of the AML/CFT Regulations, R.R.A, P98-1 (“AML/CFT Regulations”) and the AML/CFT Code, R.R.A. P98-3 (“AML/CFT Code”); and the International Business Act, R.S.A. c. 120 (“IBC Act”). This followed the same procedure as the first phase and assessed the five (5) areas noted above. The completion of the second phase is expected to be completed in 2022 with the publication of a summary of findings report. Following this, the third and final phase will begin.

National Risk Assessment

The work on the National Risk Assessment (“NRA”) and preparation for the CFATF Fourth Round of Mutual Evaluations continued with all governmental agencies involved including Customs Department; Immigration Department; Financial Intelligence Unit; Attorney General’s Chambers; Royal Anguilla Police Force; Commercial Registry; and the Commission. Following the completion of the full draft of the national risk assessment, a summary version of the NRA was drafted. The summary version of the NRA outlined the key findings of the NRA in a condensed format excluding sensitive data and statistics. It is envisioned that the summary version of the NRA will be published in 2022 and training with the relevant government agencies and private sector will commence thereafter.

Enforcement Activity

During 2021, there were 4 notices of intent to suspend; 4 suspensions; 4 notices on intent to revoke and 4 revocations. Figure 3 below provides an illustration of the enforcement activity between 2017-2021.

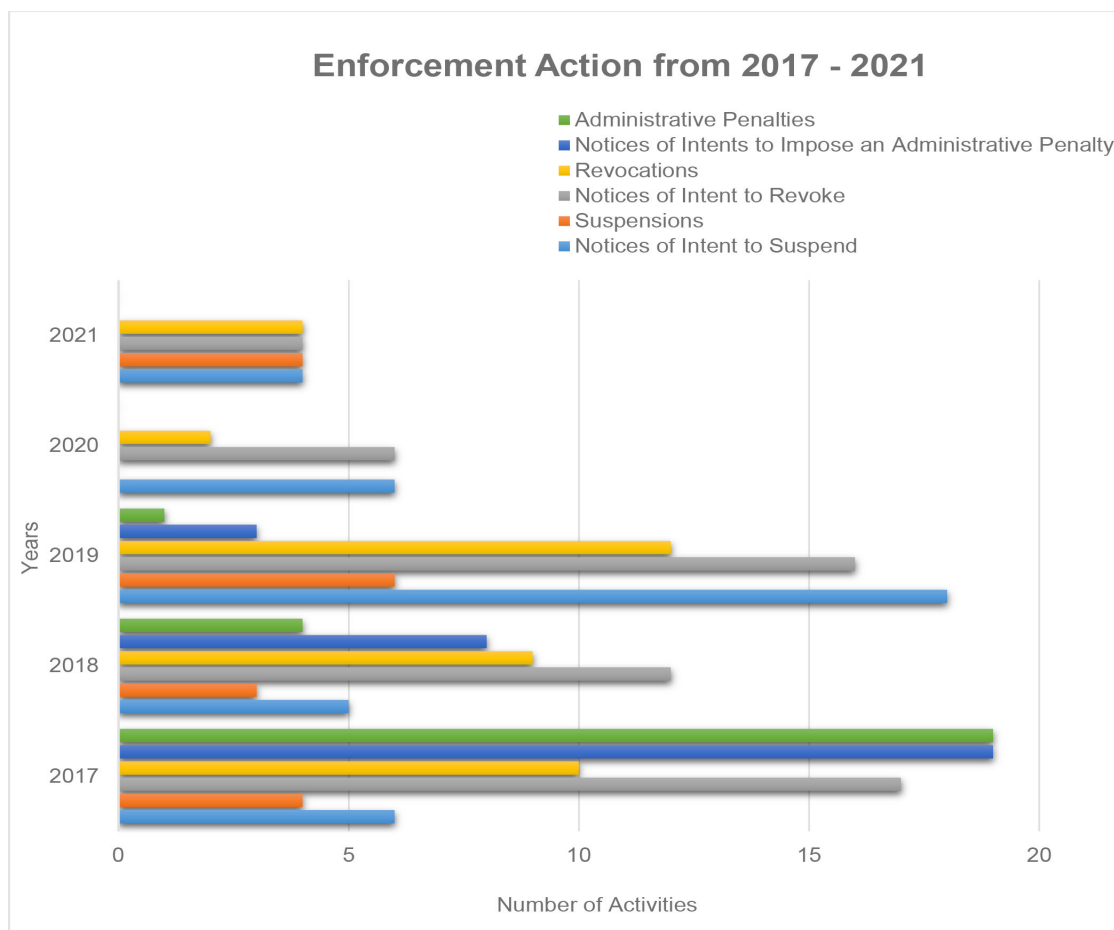


Figure 3: Enforcement Action from 2017-2021

5.0 Legislative Developments

The year saw the Commission continuing its work on its suite of financial services legislation in which various consultations were held with industry.

In April 2021, the Commission, as part of the Committee formed to review the Business Companies legislation, engaged in consultation along with the Ministry of Finance and the Commercial Registry particularly in relation to segregated portfolio companies under the Business Companies legislation that will repeal the Protected Cell Companies legislation.

Considerable work was also undertaken in relation the Co-operative Societies legislation in which an engaging session was held on 23 and 24 November with industry and consultant, Melvin Edwards.

Further in December 2021, consultation regarding the Commercial Registry and Beneficial Ownership Registration System legislation was held in which information pertaining to due diligence was discussed. The Commission continues its review of the Anguilla Special Trust Bill, Trust and Corporate Service Providers Bill, Variable Capital Companies Bill and Securities and Investment Fund Bill.

Policies

Considerable amount of work was undertaken in reviewing and revising the staff policy to ensure compliance with the Labor (Relations) Act, 2018 which remains under review. With the advent of COVID-19, the Commission was advised to revise its policies in accordance with that of the Ministry of Health.

Cooperation between National Regulatory Authorities

The Commission continues to cooperate with national regulatory authorities in meeting their regulatory remit. The Commission also entered into a multilateral memorandum of understanding with the Eastern Caribbean Central Bank and the Eastern Caribbean regulatory authorities regarding information sharing on payment systems.

6.0 Industry Engagement

The Commission partnered with the Anguilla Compliance Association in presenting on the topic, "The Roles and Responsibilities of Compliance Officers".

Further, the Fintech and Compliance Conference was held in December 2021 over a two-day period to include renowned speakers from Global Impact FinTech (GIFT); Blockchain Intelligence Group (BIGG); Caribbean Financial Action Task Force (CFATF); Accrue; Ministry of Finance; Financial Intelligence Unit, Anguilla; Anguilla Compliance Association; Eastern Caribbean Regulatory Securities Exchange; Mourant and the Anguilla Financial Services Commission.

The theme for Day 1 was *"Adding Value: Unity, Strength and Endurance – Anguilla's AML/CFT Framework"*; while the theme for Day 2 was *"Innovating Strength, Endurance and Unity through Fintech."*

The themes reflected Anguilla's motto (Unity, Strength and Endurance) yet speaking to innovation and adding value. Value is key as service providers move towards offering more value added services and building the financial services industry. Some of the sessions are hosted on the Commission's YouTube page.

Presentations

- Reform, Reset and Refocus - Changes to embed Endurance into Anguilla's Regulatory Regime
- FATF – Revisiting Recommendations
- AXA's Ongoing Work – Beneficial Ownership, Substance and other developments
- Meaningful Risk Assessments
- Cryptocurrency: related frauds, scams, and schemes and investigative tools and training
- International Cooperation - The Industry's Pivotal Role
- AI and Anguilla – Our Virtual Future
- Utility Tokens, Smart Contracts and Tech Neutral Laws - Why Anguilla is ready to pivot
- CBDCs and Global Trends

Panel Discussions

- Regulation for the 21st Century
- Our Digital Future - Global Perspectives on FinTech, Regulation and Innovation
- Game On! How SIFCs Level-up on Innovation

7.0 Professional Development

Staff from the Commission engaged in a number of conferences and workshops throughout the year with the majority held virtually. Several of these conferences explored topics in the regulation and supervision of credit unions, the integration of climate related financial risks, risk-based supervision, IFRS 17, AML and Financial Crime and Countering Proliferation Finance.

In September 2021, Glenda Leben of Caribbean Financial Action Task Force held a three (3) day conference in strengthening supervisory systems with the topic “Understanding Immediate Outcome 3 – Effective Supervision”

Other virtual conferences included sessions with international and regulatory bodies such as Caribbean Regional Technical Assistance Centre (CARTAC), Financial Action Task Force (FATF), Central Bank of Bahamas, Caribbean Development Bank involving topics on Trust and Corporate Service Providers and associated AML/CFT Risks, Corruption, Compliance and Cyber Crime and AML/CFT Compliance.

Four staff members pursued continuing education with the International Centre for Captive Insurance Education (ICCIE) to maintain the certification of Association in Captive Insurance.

One staff member continues to pursue tertiary educational courses with the University of the West Indies.

8.0 Regulatory Meetings

Annual regulatory conferences attended included the Group of Financial Centre Supervisors (GIFCS) conference held in April and November; the Group of International Insurance Centre Supervisors (GIICS) conference was held in July and the Caribbean Association of Insurance Regulators (CAIR) conference was held in June. All conferences were held virtually.

9.0 Financial Performance Analysis

The Commission reported a deficit of US\$286,552 for the year ended 31 December 2021 (Deficit US\$83,279 for 2020), which is a 244.1% increase over the previous year. Reserves decreased by 9.8% to US\$2,650,864 as at 31 December 2021 from US\$2,937,416 as at 31 December 2020. The underlying factors of the year’s performance are reported below.

10.0 Assets, Liabilities and Reserves

As at 31 December 2021, the Commission’s total assets were US\$8,074,601 (2020: US\$ US\$8,533,316). Liquid assets, in 2021 being entirely cash, accounted for 92.9% of the Commission’s assets (2020: 93.0%).

Total liabilities were US\$5,423,737 (2020: US\$5,595,900). The decrease from 2020 was mainly as a result of decreases within Gratuity obligations, Lease Liability and Statutory Deposits held by the Commission in connection with approved external insurers licensed in the jurisdiction. Accumulated reserves were US\$2,650,864 at year end (2020: US\$2,937,416), the decrease resulted from the net deficit reported.

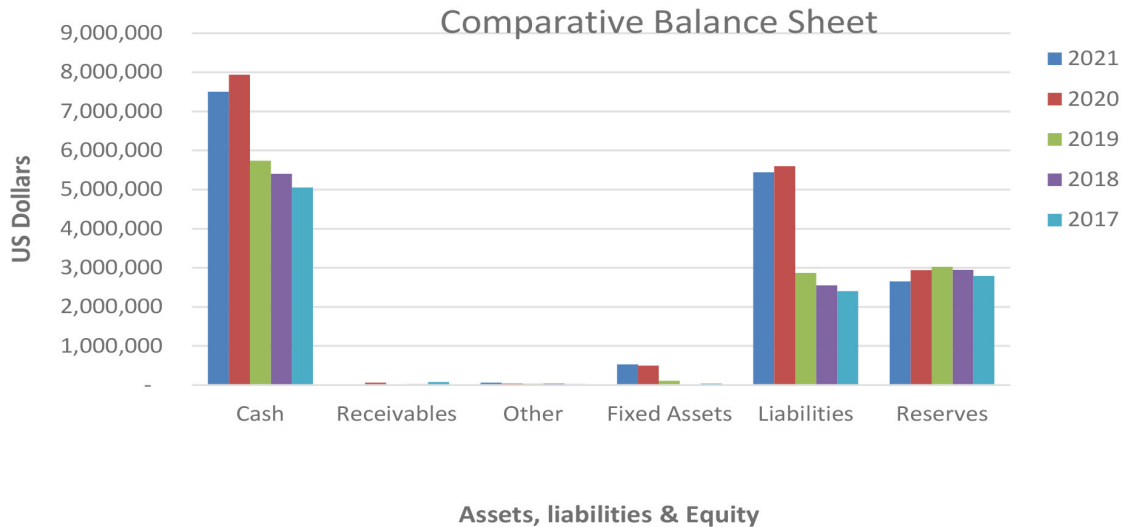


Figure 4: Comparative Balance Sheet Indicator

11.0 Revenue

Total revenue decreased by 16.5% or US\$163,044 to US\$826,725 (2020: US\$989,769). License fee revenue decreased by 13.4% or US\$115,063 to US\$745,502 (2020: US\$860,565). The decrease in license fee revenues was primarily due to a decrease in the number of licensees. Total revenue included fee income from other regulatory services as stipulated by the applicable legislation as well as penalties which include the assessed amount of fines for late payment of fees and administrative penalties imposed.

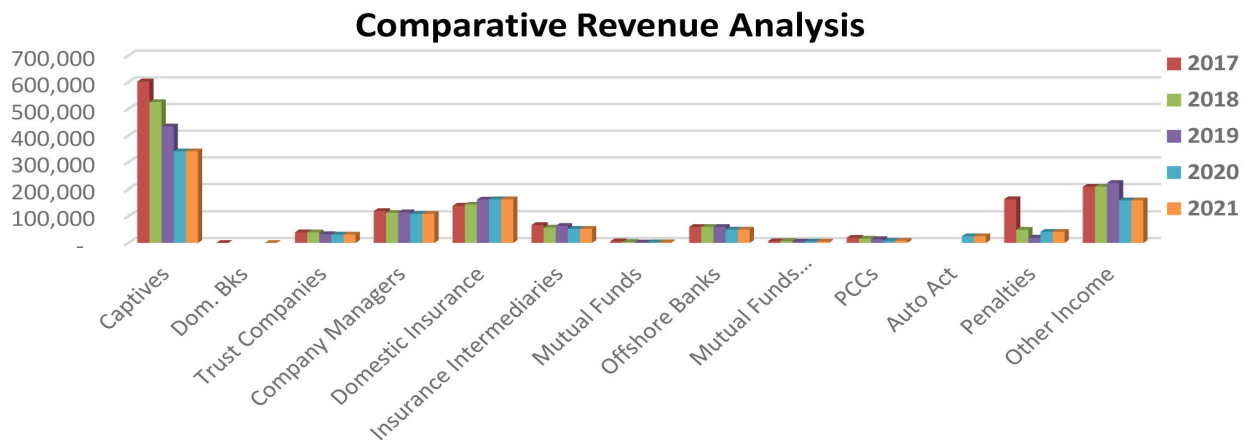


Figure 5: Comparative Revenue Analysis

12.0 Expenditure

Total expenses increased by 3.8% or US\$40,229 to US\$1,113,277 (2020: US\$1,073,048). This was mainly attributable Bad Debt Expense resulting from the impairment loss on accounts receivables. This impairment was due to a licensee who is currently under administratorship.

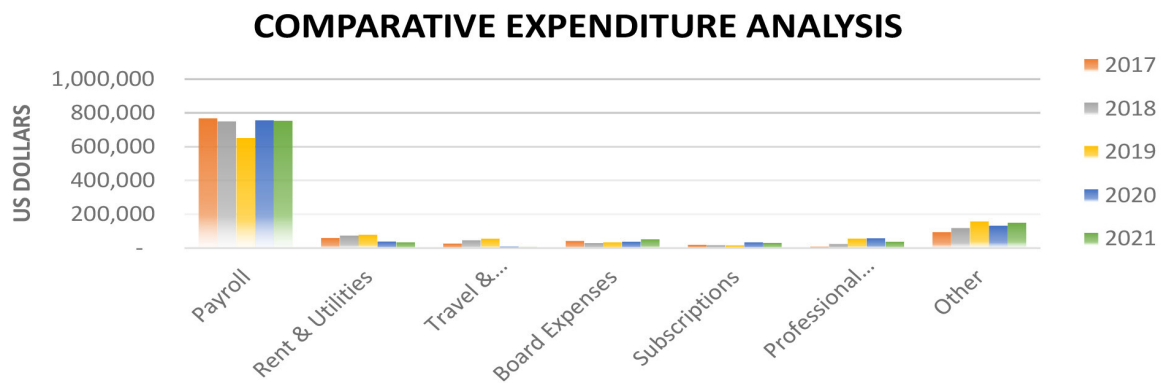


Figure 6: Comparative Expenditure Analysis